

This letter discusses drop-shipments. See 86 Ill. Adm. Code 130.225. (This is a GIL.)

March 3, 2006

Dear Xxxxx:

This letter is in response to your letters dated December 3, 2004 and November 30, 2005, in which you request information. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at [www.tax.illinois.gov](http://www.tax.illinois.gov) to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

I have been unable to determine the taxability of a transaction under the Retailers' Occupation Tax Section of the Illinois Revenue Regulations. I would request that a letter regarding the transaction be issued to resolve a dispute between buyer and seller of tangible personal property.

A buyer and seller of goods for which Retail Occupation Tax would apply are both located in Illinois. The purchaser also has multiple locations throughout the United States. The seller manufactures tangible personal property. The buyer is the end user of the property. The seller has the tangible personal property manufactured outside Illinois by a third-party company who is independent of the buyer and seller. The purchaser contracts for the seller to ship the goods directly to offices located throughout the United States including several locations within Illinois. At no time does the 'main office' within Illinois take possession of the tangible personal property. The 'satellite locations' take immediate possession of the property directly from a shipping company independent of the buyer, seller and manufacturer. The terms of the contract are FOB Our Plant and the manufacturer is listed on the bills of lading as the shipper.

The purchaser of the property is indicating that Retail Occupation Tax should be imposed only on the property that is shipped within Illinois. They are citing 86 Ill. Adm. Code 130.605(b) as reference. However, since the property is not shipped from within Illinois to a location outside Illinois, I do not feel the reference is applicable and that the transaction is taxable.

Therefore, I would request a letter from the Department of Revenue indicating the taxability of the transaction. Should you have any questions, please do not hesitate to contact me.

**DEPARTMENT'S RESPONSE:**

The situation described in the letter ruling request appears to be a drop-shipment situation. For general information on drop-shipments, please see 86 Ill. Adm. Code 130.225. A transaction in which a sale of items takes place in Illinois and the items are shipped from a location outside of Illinois to a customer in Illinois for use in Illinois is subject to Retailers' Occupation and Use Tax. See 86 Ill. Admin. 130.101 and 86 Ill. Admin. 150.101.

However, even if a sale of an item occurs in Illinois, if the item is located outside Illinois and is shipped to another location outside of Illinois, not to enter into or be used in Illinois, no Retailers' Occupation or Use Tax is owed.

Sales and use tax liability, if any, on goods shipped to locations outside Illinois by an out-of-state manufacturer is determined by the tax laws of the other states involved.

I hope this information is helpful. If you require additional information, please visit our website at [www.tax.illinois.gov](http://www.tax.illinois.gov) or contact the Department's Taxpayer Information Division at (217) 782-3336. If you are not under audit and you wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b).

Sincerely,

Samuel J. Moore  
Associate Counsel

SJM:msk